

Translation

PATENT COOPERATION TREATY

PCT/JP2002/004344



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference NK2002-010.0	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/JP2002/004344	International filing date (day/month/year) 30 April 2002 (30.04.2002)	Priority date (day/month/year)
International Patent Classification (IPC) or national classification and IPC A61F 9/00		
Applicant NIDEK CO., LTD.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 4 sheets, including this cover sheet.
☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).
These annexes consist of a total of _____ sheets.

3. This report contains indications relating to the following items:
 - I ☒ Basis of the report
 - II ☐ Priority
 - III ☒ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☐ Lack of unity of invention
 - V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application

Date of submission of the demand 16 October 2003 (16.10.2003)	Date of completion of this report 25 June 2004 (25.06.2004)
Name and mailing address of the IPEA/JP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/JP2002/004344

I. Basis of the report

1. With regard to the elements of the international application:*

- ☒ the international application as originally filed
- ☐ the description:
 pages _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____
- ☐ the claims:
 pages _____, as originally filed
 pages _____, as amended (together with any statement under Article 19
 pages _____, filed with the demand
 pages _____, filed with the letter of _____
- ☐ the drawings:
 pages _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____
- ☐ the sequence listing part of the description:
 pages _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/fig _____

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.
PCT/JP02/04344

III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application.

☒ claims Nos. 1-6

because:

☒ the said international application, or the said claims Nos. 1-6
relate to the following subject matter which does not require an international preliminary examination (*specify*):

The subject matter of claims 1-6 relates to a method of treating the human body by surgery or therapy.

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. _____
are so unclear that no meaningful opinion could be formed (*specify*):

☐ the claims, or said claims Nos. _____ are so inadequately supported
by the description that no meaningful opinion could be formed.

☒ no international search report has been established for said claims Nos. 1-6

2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:

☐ the written form has not been furnished or does not comply with the standard.

☐ the computer readable form has not been furnished or does not comply with the standard.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/JP02/04344

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. Statement**

Novelty (N)	Claims	7-9	YES
	Claims		NO
Inventive step (IS)	Claims		YES
	Claims	7-9	NO
Industrial applicability (IA)	Claims	7-9	YES
	Claims		NO

2. Citations and explanations

Document 1: US, 5624436, A (Nidek Co., Ltd.), April 29, 1997 (04.29.97)

Document 2: JP, 2002-65719, A (Nidek Co., Ltd.), March 5, 2002 (03.05.02)

Document 3: WO, 96/04527, A1 (Photoelectron Corporation), February 15, 1996 (03.15.96)

Claims 7-9

Document 1 describes an ablation device comprising instruction means for instructing controlling means to form a curved surface having a first optical property with respect to a rate reference, measuring means for measuring a second optical property of a curved surface actually formed on the rate reference, and correction means for correcting drive information of a device by calculating ablation rate with respect to a processed object based on comparison of a second optical property and a first optical property.

Document 3 describes a pseudo-model 110 having the same physical size as a human body part to be treated.

In the invention described in document 1, using the invention described in document 3 so as to have the rate reference have the same dimensions as the processed subject could be easily conceived of by a party skilled in the art.

Document 2 describes an art for measuring the shape of a subject after laser irradiation in order to correct laser irradiation control data.

As an alternative to the measurement of optical property in the invention described in document 1, using the art for measuring shape described in document 2 to measure the shape of optical property measurement could be easily conceived of by a party skilled in the art.

Therefore, the inventions relating to claims 7-9 do not appear to involve an inventive step based on documents 1-3.